



March 25, 2005

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## ENGROSSED SENATE BILL No. 512

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DIGEST OF SB 512 (Updated March 23, 2005 6:19 pm - DI 73)

**Citations Affected:** IC 36-4; noncode.

**Synopsis:** Town government and annexation. Provides a procedure for changing a town into a city. Provides that a town may be changed into a city if the voters of the town approve a public question on changing the town into a city. Authorizes the town legislative body to provide by ordinance for the details of the conversion of the town into a city. Authorizes a town that began conversion into a city under existing law to complete conversion under the new statute. Permits a town that has begun its conversion into a city to complete the conversion by January 1, 2006, by holding a special election for city officers in 2005. Provides that a town does not have to obtain the consent of a city before annexing territory within three miles of the city if the town annexes territory located in a different county than a city or the annexation is a voluntary annexation or an annexation initiated by a municipality and consented to by at least 51% of the landowners of the annexed territory.  
(Continued next page)

**Effective:** January 1, 2004 (retroactive); upon passage; July 1, 2005.

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**Drozda, Long, Gard, Lewis,  
Antich-Carr, Zakas**

(HOUSE SPONSORS — WHETSTONE, RICHARDSON, NOE, WALORSKI)

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January 18, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

February 24, 2005, amended, reported favorably — Do Pass.

February 28, 2005, read second time, ordered engrossed. Engrossed.

March 1, 2005, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

March 14, 2005, read first time and referred to Committee on Local Government.

March 24, 2005, amended, reported — Do Pass.

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ES 512—LS 6996/DI 75+



## Digest Continued

Provides that if territory to be annexed consists of not more than 100 parcels, and 80% of the boundary of the annexed territory is contiguous to the municipality, a remonstrance requires the signatures of at least 75% of the landowners in the annexed territory. Allows a municipality in Elkhart County to annex territory that: (1) is not contiguous to the municipality; (2) has its entire area not more than two miles from the municipality's boundary; (3) is to be used for an industrial park containing one or more businesses; and (4) is either owned by the municipality or by a property owner who consents to the annexation. Allows the following to exempt annexed agricultural land from property tax liability until the land is rezoned under a different classification: (1) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization. (2) The town of Pendleton. (3) The town of Lapel. (4) A town located in a township that borders the Muscatatuck River and has a canning factory. Repeals current statutes governing conversion of a town into a city.

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March 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 512

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-4-1-9 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 9. The validity of the prior acts,  
3 contracts, and obligations of a ~~municipality~~ **city** that changes its status,  
4 name, or classification under this chapter is not affected by that change.  
5 The ordinances, rules, and regulations of the ~~municipality~~ **city** continue  
6 in effect until amended or repealed.
- 7 SECTION 2. IC 36-4-1.5 IS ADDED TO THE INDIANA CODE  
8 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]:
- 10 **Chapter 1.5. Changing a Town Into a City**
- 11 **Sec. 1. (a) A town may be changed into a city only as provided**  
12 **in this chapter.**
- 13 **(b) A town with a population of less than two thousand (2,000)**  
14 **may not be changed into a city.**
- 15 **Sec. 2. A town may be changed into a city through the following:**
- 16 **(1) The town legislative body must adopt a resolution**  
17 **submitting to the town's voters the question of whether the**

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town should be changed into a city. The town legislative body shall adopt a resolution described in this subdivision if at least the number of registered voters of the town equal to ten percent (10%) of the total votes cast in the town at the last election for secretary of state sign a petition requesting the town legislative body to adopt such a resolution. In determining the number of signatures required under this subdivision, any fraction that exceeds a whole number shall be disregarded.

(2) A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the town should be changed into a city. If the election is to be a special election, the date must be:

(A) not less than thirty (30); and

(B) not more than sixty (60);

days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of \_\_\_\_\_ change into a city?".

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

Sec. 3. (a) A town legislative body may satisfy the requirements of this section in an ordinance adopted either before or after the town's voters vote on the question described in section 2 of this chapter.

(b) If a resolution is adopted under section 2 of this chapter, the town legislative body shall adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance adopted under this section must include the following

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1 details:

2 (1) A division of the town into city legislative body districts as  
3 provided in the applicable provisions of IC 36-4-6.

4 (2) Provisions for the election of the following officers:

5 (A) The city executive.

6 (B) The members of the city legislative body.

7 (C) The city clerk or city clerk-treasurer as appropriate  
8 under IC 36-4-10.

9 (3) The date of the first election of the city officers. The first  
10 election may be held only on the date of a general election or  
11 a municipal election. Candidates for election to the city offices  
12 shall be nominated:

13 (A) at the corresponding primary election during a general  
14 election year or a municipal election year; or

15 (B) as otherwise provided in IC 3.

16 (4) Subject to section 4 of this chapter, the term of office of  
17 each city officer elected at the first election of city officers.

18 (5) Any other details the town legislative body considers  
19 useful in providing for the transition of the town into a city.

20 (c) An ordinance adopted under this section is effective only if  
21 the voters of the town approve the conversion of the town into a  
22 city under section 2(6) of this chapter.

23 (d) The provisions of an ordinance adopted under this section  
24 are subject to all other laws governing the structure of city  
25 government.

26 (e) Subject to this chapter, the town legislative body or the city  
27 legislative body (after the town is changed into a city) may amend  
28 an ordinance adopted under this section.

29 Sec. 4. (a) Notwithstanding any other law, the term of office of  
30 the city officers elected at the first election of city officers held  
31 under the ordinance adopted under section 3 of this chapter:

32 (1) begins on January 1 after the first election of city officers;  
33 and

34 (2) may not extend after December 31 of the next municipal  
35 election year that occurs after the first election of city officers.

36 (b) The ordinance adopted under section 3 of this chapter may  
37 provide for a shorter term of office for specified members of the  
38 city legislative body to stagger terms as permitted under IC 3 and  
39 IC 36-4-6 if a general election will occur before the next municipal  
40 election after the first election of city officers.

41 (c) After the first municipal election after the first election of  
42 city officers, the term of office of each city officer is four (4) years.

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**Sec. 5. A town becomes a city under this chapter on January 1 after the first election of city officers under section 4 of this chapter.**

**Sec. 6. (a) The acts, contracts, and obligations of a town that is changed into a city under this chapter become the acts, contracts, and obligations of the city.**

**(b) The ordinances, rules, and regulations of a town that is changed into a city under this chapter continue in effect as ordinances, rules, and regulations of the city until amended or repealed.**

**SECTION 3. IC 36-4-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:**

- (1) Territory that is contiguous to the municipality.**
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.**
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.**

**(b) This subsection applies to municipalities in a county having a population of:**

- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);**
- (2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);**
- (3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);**
- (4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);**

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(5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);

(6) more than thirty-eight thousand (38,000) but less than thirty-nine thousand (39,000);

(7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);

(8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); or

(9) more than ~~two hundred thousand (200,000)~~ **one hundred eighty-two thousand seven hundred ninety (182,790)** but less than three hundred thousand (300,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory

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- 1           become contiguous to the city, as allowed by Indiana law;  
 2           (2) expanding the municipality's extraterritorial jurisdictional  
 3           area; or  
 4           (3) changing an assigned service area under IC 8-1-2.3-6(1).  
 5           (e) As used in this section, "airport" and "landing field" have the  
 6           meanings prescribed by IC 8-22-1.  
 7           (f) As used in this section, "hospital" has the meaning prescribed by  
 8           IC 16-18-2-179(b).  
 9           (g) An ordinance adopted under this section must assign the  
 10          territory annexed by the ordinance to at least one (1) municipal  
 11          legislative body district.  
 12          (h) This subsection applies to a city having a population of more  
 13          than thirty-one thousand (31,000) but less than thirty-two thousand  
 14          (32,000). The legislative body of a city may, by ordinance, annex  
 15          territory that:  
 16               (1) is not contiguous to the city;  
 17               (2) has its entire area not more than eight (8) miles from the city's  
 18               boundary;  
 19               (3) does not extend more than:  
 20                    (A) one and one-half (1 1/2) miles to the west;  
 21                    (B) three-fourths (3/4) mile to the east;  
 22                    (C) one-half (1/2) mile to the north; or  
 23                    (D) one-half (1/2) mile to the south;  
 24          of an interchange of an interstate highway (as designated by the  
 25          federal highway authorities) and a state highway (as designated  
 26          by the state highway authorities); and  
 27          (4) is owned by the city or by a property owner that consents to  
 28          the annexation.  
 29          SECTION 4. IC 36-4-3-4.1 IS AMENDED TO READ AS  
 30          FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) This section  
 31          applies to the following:  
 32               (1) A town having a population of:  
 33                    (A) more than fifteen thousand (15,000); or  
 34                    (B) more than five thousand (5,000) but less than six thousand  
 35                    three hundred (6,300);  
 36          located in a county having a population of more than one hundred  
 37          thousand (100,000) but less than one hundred five thousand  
 38          (105,000).  
 39               (2) A city having a population of more than thirty-two thousand  
 40               eight hundred (32,800) but less than thirty-three thousand  
 41               (33,000).  
 42               (3) A municipality that is located in a county having a population

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of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(4) A town having a population of more than nine thousand (9,000) but less than thirty thousand (30,000) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

**(5) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization.**

**(6) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(7) A town having a population of more than one thousand five hundred (1,500) but less than one thousand nine hundred (1,900) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(8) A town located in a township that:**

**(A) borders the Muscatatuck River; and**

**(B) has a canning factory.**

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subsection ~~(a)(1)~~ **(a)(1)(A) or (a)(1)(B)**, has its entire area within the township within which the municipality is primarily located; and

(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a town having a population of:

(1) more than five thousand (5,000) but less than eight thousand (8,000); or

(2) more than nine thousand (9,000) but less than twelve thousand five hundred (12,500);

in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that ~~is~~ **are** classified for zoning purposes as ~~agriculture~~ **agricultural** and ~~remains~~ **remain** exempt from the property

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1 tax liability while the property's zoning classification remains  
2 ~~agriculture.~~ **agricultural.**

3 (e) There may not be a change in the zoning classification of  
4 territory annexed under this section without the consent of the owner  
5 of the annexed territory.

6 **(f) Except as provided in subsection (g), territory annexed under**  
7 **this section may not be considered a part of the municipality for**  
8 **purposes of involuntarily annexing additional territory.**

9 **(g) Territory annexed under this section shall be considered a**  
10 **part of the municipality for purposes of annexing additional**  
11 **territory under section 5 or 5.1 of this chapter.**

12 SECTION 5. IC 36-4-3-9 IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 9. (a) A  
14 town must obtain the consent of both the metropolitan development  
15 commission and the legislative body of a county having a consolidated  
16 city before annexing territory within the county where a consolidated  
17 city is located.

18 (b) This subsection does not apply to the following:

19 (1) ~~A town:~~

20 (A) located in a county having a population of more than four  
21 hundred thousand (400,000) but less than seven hundred  
22 thousand (700,000); and

23 (B) that has a population of more than thirty thousand  
24 (30,000);

25 (2) ~~A town:~~

26 (A) located in a county having a population of more than one  
27 hundred eighty thousand (180,000) but less than one hundred  
28 eighty-two thousand seven hundred ninety (182,790);

29 (B) having a population of more than thirty thousand (30,000);  
30 and

31 (C) located in a different county than the city:

32 A town must obtain the consent of the legislative body of a second or  
33 third class city before annexing territory within three (3) miles of the  
34 corporate boundaries of the city **unless:**

35 **(1) the town that proposes to annex the territory is located in**  
36 **a different county than the city; or**

37 **(2) the annexation by the town is:**

38 **(A) an annexation under section 5 or 5.1 of this chapter; or**

39 **(B) consented to by at least fifty-one percent (51%) of the**  
40 **owners of land in the territory the town proposes to annex.**

41 **(c) In determining the total number of landowners of the**  
42 **annexed territory and whether signers of a consent under**

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subsection (b)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) (d) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

SECTION 6. IC 36-4-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and ~~subsection~~ subsections (d) and (e), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

(1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or

(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(e) This subsection applies if:

(1) the territory to be annexed consists of not more than one hundred (100) parcels; and

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**(2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.**

**An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).**

SECTION 7. IC 36-4-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

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(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the ~~following~~ conditions **set forth in clauses (A) through (D) and, if applicable, clause (E)** exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

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(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

**(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.**

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

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(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 36-4-1-3; IC 36-4-1-4; IC 36-4-1-4.1; IC 36-4-1-5.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under IC 36-4-1.5, as added by this act.

(b) This SECTION expires July 1, 2009.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under this SECTION.

(b) The town legislative body must adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) That the first election of the city officers will be held in a

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special election on November 8, 2005, as provided in this SECTION.

(4) Subject to subdivision (5), the term of office of each city officer elected at the November 8, 2005, special election.

(5) The term of office of each city officer elected at the special election may be as follows, as provided in the ordinance:

(A) The term of office of a city officer may expire January 1, 2007. The successor of a city officer described in this clause shall be elected at the November 7, 2006, general election and serve a term of four (4) years, beginning January 1, 2007.

(B) The term of office of a city officer may expire January 1, 2008. The successor of a city officer described in this clause shall be elected at the November 6, 2007, municipal election and serve a term of four (4) years, beginning January 1, 2008.

(C) The term of office of a city officer may expire January 1, 2009. The successor of a city officer described in this clause shall be elected at the November 4, 2008, general election and serve a term of four (4) years, beginning January 1, 2009.

The ordinance may provide for different terms of office of the city officers elected at the November 8, 2005, special election in order to provide for staggered terms of office.

(6) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) If a town legislative body adopts an ordinance under this SECTION, a copy of the ordinance must be filed with the circuit court clerk of each county in which the town has territory.

(d) Notwithstanding IC 3-10-8-5, candidates for a city office elected under this SECTION shall be nominated as follows:

(A) If a candidate is affiliated with a major political party, the candidate shall be nominated by a declaration of candidacy. A declaration of candidacy must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of candidacy filed under this SECTION.

(B) If a candidate is not affiliated with a major political party, the candidate may be nominated by a petition of nomination. A petition of nomination must be filed not earlier than July 27, 2005, and not later than August 26,

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2005. Except as provided in this SECTION, IC 3-8-6 applies to a petition of nomination filed under this SECTION.

(C) If a candidate wants to be a write-in candidate, the candidate shall file a declaration of intent to be a write-in candidate not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of intent to be a write-in candidate filed under this SECTION.

(e) The provisions of an ordinance adopted under this SECTION are subject to all other laws governing the structure of city government.

(f) Subject to this chapter, the town legislative body or the city legislative body (after the town is changed into a city) may amend an ordinance adopted under this SECTION.

(g) A candidate who files a valid declaration of candidacy or a petition of nomination shall be placed on the special election ballot for the office the candidate seeks. Candidates shall be placed on the ballot in the order that the candidates file a declaration of candidacy or petition of nomination. A candidate's political affiliation shall be indicated on the ballot next to the candidate's name. If a candidate is an independent candidate, that fact shall be indicated on the ballot next to the candidate's name. If there are no declared write-in candidates for an office, the ballot is not required to include a space for voters to insert the name of a write-in candidate for that office.

(h) The candidate who receives the most votes for election to a city office at the November 8, 2005, special election is elected to that office.

(i) Except as provided in this SECTION, a special election held under this SECTION is subject to all provisions of IC 3 applicable to a special election.

(j) A town that elects its city officers under this SECTION becomes a city on January 1, 2006.

(k) The acts, contracts, and obligations of a town that is changed into a city under this SECTION become the acts, contracts, and obligations of the city.

(l) The ordinances, rules, and regulations of a town that is changed into a city under this SECTION continue in effect as ordinances, rules, and regulations of the city until amended or repealed.

(m) This SECTION expires January 1, 2009.

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1       SECTION 11. **An emergency is declared for this act.**

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SENATE MOTION

Madam President: I move that Senator Antich-Carr be added as coauthor of Senate Bill 512.

DROZDA

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SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 512.

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## COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 512, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 3 through 4 with "[EFFECTIVE UPON PASSAGE]".

Page 1, line 2, delete "JULY 1, 2005]:" and insert "UPON PASSAGE]:".

Page 1, line 9, delete "JULY 1, 2005]:" and insert "UPON PASSAGE]:".

Page 4, between lines 10 and 11, begin a new paragraph and insert:  
 "SECTION 3. IC 36-4-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]:  
 Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) This subsection does not apply to the following:

(1) A town:

(A) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(B) that has a population of more than thirty thousand (30,000);

(2) A town:

(A) located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790);

(B) having a population of more than thirty thousand (30,000); and

(C) located in a different county than the city:

A town must obtain the consent of the legislative body of a second or third class city before annexing territory within three (3) miles of the corporate boundaries of the city **unless:**

(1) the town that proposes to annex the territory is located in a different county than the city; or

(2) the annexation by the town is:

(A) an annexation under section 5 or 5.1 of this chapter; or

(B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

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(c) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (b)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

~~(c)~~ (d) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section."

Page 4, line 14, strike "subsection" and insert "**subsections**".

Page 4, line 14, delete "," and insert "**and (e)**".

Page 4, line 18, reset in roman "sixty-five".

Page 4, line 18, delete "fifty-one".

Page 4, line 18, reset in roman "(65%)".

Page 4, line 18, delete "(51%)".

Page 4, line 20, reset in roman "seventy-five".

Page 4, line 20, delete "sixty-five".

Page 4, line 20, reset in roman "(75%)".

Page 4, line 21, delete "(65%)".

Page 4, after line 42, begin a new paragraph and insert:

"(e) This subsection applies if:

(1) the territory to be annexed consists of not more than ten (10) parcels; and

(2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least ninety percent (90%) of the owners of land in the annexed territory as determined under subsection (b) of this chapter."

Page 6, line 24, strike "following".

Page 6, line 24, after "conditions" insert "**set forth in clauses (A) through (D) and, if applicable, clause (E)**".

Page 6, line 36, reset in roman "sixty-five".

Page 6, line 36, delete "fifty-one".

Page 6, line 36, reset in roman "(65%)".

Page 6, line 36, delete "(51%)".

Page 6, line 38, reset in roman "seventy-five".

Page 6, line 38, delete "sixty-five".

Page 6, line 39, reset in roman "(75%)".

Page 6, line 39, delete "(65%)".

Page 6, between lines 40 and 41, begin a new line double block

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indented and insert:

**"(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than ten (10) parcels. At least ninety percent (90%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter."**

Page 8, line 5, delete "JULY 1, 2005]" and insert "UPON PASSAGE]:".

Page 8, line 5, after "IC 36-4-1-5" delete ";" and insert ".".

Page 8, delete line 6.

Page 8, line 7, delete "JULY 1, 2005]" and insert "UPON PASSAGE]:".

Page 8, line 8, delete "July 1," and insert "**January 1,**".

Page 8, between lines 11 and 12, begin a new paragraph and insert:  
**"SECTION 8. [EFFECTIVE UPON PASSAGE] (a) A town that began conversion into a city under IC 36-4-1, as in effect before January 1, 2005, may complete its conversion into a city under this SECTION.**

**(b) The town legislative body must adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance must include the following details:**

- (1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.**
- (2) Provisions for the election of the following officers:**
  - (A) The city executive.**
  - (B) The members of the city legislative body.**
  - (C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.**
- (3) That the first election of the city officers will be held in a special election on November 8, 2005, as provided in this SECTION.**
- (4) Subject to subdivision (5), the term of office of each city officer elected at the November 8, 2005, special election.**
- (5) The term of office of each city officer elected at the special election may be as follows, as provided in the ordinance:**
  - (A) The term of office of a city officer may expire January 1, 2007. The successor of a city officer described in this clause shall be elected at the November 7, 2006, general election and serve a term of four (4) years, beginning**

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January 1, 2007.

(B) The term of office of a city officer may expire January 1, 2008. The successor of a city officer described in this clause shall be elected at the November 6, 2007, municipal election and serve a term of four (4) years, beginning January 1, 2008.

(C) The term of office of a city officer may expire January 1, 2009. The successor of a city officer described in this clause shall be elected at the November 4, 2008, general election and serve a term of four (4) years, beginning January 1, 2009.

The ordinance may provide for different terms of office of the city officers elected at the November 8, 2005, special election in order to provide for staggered terms of office.

(6) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) If a town legislative body adopts an ordinance under this SECTION, a copy of the ordinance must be filed with the circuit court clerk of each county in which the town has territory.

(d) Notwithstanding IC 3-10-8-5, candidates for a city office elected under this SECTION shall be nominated as follows:

(A) If a candidate is affiliated with a major political party, the candidate shall be nominated by a declaration of candidacy. A declaration of candidacy must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of candidacy filed under this SECTION.

(B) If a candidate is not affiliated with a major political party, the candidate may be nominated by a petition of nomination. A petition of nomination must be filed not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-6 applies to a petition of nomination filed under this SECTION.

(C) If a candidate wants to be a write-in candidate, the candidate shall file a declaration of intent to be a write-in candidate not earlier than July 27, 2005, and not later than August 26, 2005. Except as provided in this SECTION, IC 3-8-2 applies to a declaration of intent to be a write-in candidate filed under this SECTION.

(e) The provisions of an ordinance adopted under this section

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are subject to all other laws governing the structure of city government.

(f) Subject to this chapter, the town legislative body or the city legislative body (after the town is changed into a city) may amend an ordinance adopted under this section.

(g) A candidate who files a valid declaration of candidacy or a petition of nomination shall be placed on the special election ballot for the office the candidate seeks. Candidates shall be placed on the ballot in the order that the candidates file a declaration of candidacy or petition of nomination. A candidate's political affiliation shall be indicated on the ballot next to the candidate's name. If a candidate is an independent candidate, that fact shall be indicated on the ballot next to the candidate's name. If there are no declared write-in candidates for an office, the ballot is not required to include a space for voters to insert the name of a write-in candidate for that office.

(h) The candidate who receives the most votes for election to a city office at the November 8, 2005, special election is elected to that office.

(i) Except as provided in this SECTION, a special election held under this SECTION is subject to all provisions of IC 3 applicable to a special election.

(j) A town that elects its city officers under this SECTION becomes a city on January 1, 2006.

(k) The acts, contracts, and obligations of a town that is changed into a city under this SECTION become the acts, contracts, and obligations of the city.

(l) The ordinances, rules, and regulations of a town that is changed into a city under this SECTION continue in effect as ordinances, rules, and regulations of the city until amended or repealed.

(m) This SECTION expires January 1, 2009."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 512 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 6, Nays 3.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 512, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 3. IC 36-4-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

- (1) Territory that is contiguous to the municipality.
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated airport or landing field.
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by a municipally owned or regulated sanitary landfill, golf course, or hospital. However, if territory annexed under this subsection ceases to be used as a municipally owned or regulated sanitary landfill, golf course, or hospital for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(b) This subsection applies to municipalities in a county having a population of:

- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000);
- (2) more than seventy-one thousand four hundred (71,400) but less than seventy-three thousand (73,000);
- (3) more than seventy thousand (70,000) but less than seventy-one thousand (71,000);
- (4) more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
- (5) more than forty thousand nine hundred (40,900) but less than forty-one thousand (41,000);
- (6) more than thirty-eight thousand (38,000) but less than thirty-nine thousand (39,000);

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- (7) more than thirty thousand (30,000) but less than thirty thousand seven hundred (30,700);
- (8) more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000); or
- (9) more than ~~two hundred thousand (200,000)~~ **one hundred eighty-two thousand seven hundred ninety (182,790)** but less than three hundred thousand (300,000).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

- (1) annexing additional territory:
  - (A) in a county that is not described by clause (B); or
  - (B) in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;
- (2) expanding the municipality's extraterritorial jurisdictional area; or
- (3) changing an assigned service area under IC 8-1-2.3-6(1).

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(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than thirty-one thousand (31,000) but less than thirty-two thousand (32,000). The legislative body of a city may, by ordinance, annex territory that:

- (1) is not contiguous to the city;
- (2) has its entire area not more than eight (8) miles from the city's boundary;
- (3) does not extend more than:
  - (A) one and one-half (1 1/2) miles to the west;
  - (B) three-fourths (3/4) mile to the east;
  - (C) one-half (1/2) mile to the north; or
  - (D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

- (4) is owned by the city or by a property owner that consents to the annexation.

SECTION 4. IC 36-4-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) This section applies to the following:

- (1) A town having a population of:
  - (A) more than fifteen thousand (15,000); or
  - (B) more than five thousand (5,000) but less than six thousand three hundred (6,300);

located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000).

- (2) A city having a population of more than thirty-two thousand eight hundred (32,800) but less than thirty-three thousand (33,000).

- (3) A municipality that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

- (4) A town having a population of more than nine thousand (9,000) but less than thirty thousand (30,000) located in a county

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having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

**(5) A town located in a county that contains a racetrack sanctioned by a nationally chartered and recognized auto racing organization.**

**(6) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(7) A town having a population of more than one thousand five hundred (1,500) but less than one thousand nine hundred (1,900) located in a county having a population of more than one hundred thirty thousand (130,000) but less than one hundred forty-five thousand (145,000).**

**(8) A town located in a township that:**

**(A) borders the Muscatatuck River; and**

**(B) has a canning factory.**

(b) Except as provided in subsection (c), the legislative body of a municipality to which this section applies may, by ordinance, annex territory that:

(1) is contiguous to the municipality;

(2) in the case of a municipality described in subsection ~~(a)(1)~~ **(a)(1)(A) or (a)(1)(B)**, has its entire area within the township within which the municipality is primarily located; and

(3) is owned by a property owner who consents to the annexation.

(c) Subsection (b)(2) does not apply to a town having a population of:

(1) more than five thousand (5,000) but less than eight thousand (8,000); or

(2) more than nine thousand (9,000) but less than twelve thousand five hundred (12,500);

in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that ~~is~~ **are** classified for zoning purposes as ~~agriculture~~ **agricultural** and ~~remains~~ **remain** exempt from the property tax liability while the property's zoning classification remains ~~agriculture~~ **agricultural**.

(e) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner

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of the annexed territory.

**(f) Except as provided in subsection (g), territory annexed under this section may not be considered a part of the municipality for purposes of involuntarily annexing additional territory.**

**(g) Territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter."**

Page 5, line 40, delete "ten" and insert "**one hundred (100)**".

Page 5, line 41, delete "(10)".

Page 6, line 4, delete "ninety" and insert "**seventy-five**".

Page 6, line 4, delete "(90%)" and insert "**(75%)**".

Page 6, line 6, delete "of this chapter." and insert ".".

Page 8, line 10, delete "ten (10)" and insert "**one hundred (100)**".

Page 8, line 11, delete "ninety" and insert "**seventy-five**".

Page 8, line 11, delete "(90%)" and insert "**(75%)**".

Page 11, line 8, delete "section" and insert "**SECTION**".

Page 11, line 13, delete "section." and insert "**SECTION.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 512 as printed February 25, 2005.)

HINKLE, Chair

Committee Vote: yeas 9, nays 2.

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